

§ 6-1433. Notice of interested person duty; guardian and conservator notice requirements; court notice requirements.

(A) In all probate matters, it shall be the duty of the petitioner or applicant for probate of a will or appointment of a personal representative to show in the petition or the application the names, relationship to the subject of the petition or application, and last known post office address of all interested persons. For purposes of subsection (A) of this section, interested persons shall include all those defined under Neb. Rev. Stat. § 30-2209(21). If any interested person is known by the petitioner, applicant, or the attorney for either to be incompetent or a minor, such fact shall be disclosed to the court.

(B) In all guardianship and/or conservatorship matters, the meaning of interested person may vary from time to time and must be determined according to the particular purposes of and matter involved in any proceeding as follows:

(1) Prior to appointment and Letters being issued, interested persons are those defined in Neb. Rev. Stat. § 30-2601(10).

(2)(i) Until December 31, 2020, for all appointments which were made prior to April 1, 2020, after Letters are issued, interested persons are those defined under Neb. Rev. Stat. § 30-2601(10) who have returned the interested party form to the court, any governmental agency paying benefits on behalf of the ward, incapacitated person, protected person, or minor and any person designated by order of the court to be an interested person.

(ii) For all new appointments made after March 31, 2020, and for all cases after December 31, 2020, this paragraph (ii) shall apply. After Letters are issued, interested persons are those defined under Neb. Rev. Stat. § 30-2601(10); any governmental agency paying benefits on behalf of the ward, incapacitated person, protected person, or minor; and any person designated by order of the court to be an interested person.

(iii) The court may order that § 6-1433(B)(2)(ii) applies to any case in which the appointment was made prior to April 1, 2020.

(3) Upon termination or transfer of the guardianship and/or conservatorship for any reason other than death of the ward, incapacitated person, protected person, and/or minor, interested persons shall be the same as subsection (B)(1) above.

(4) Upon death of a ward, incapacitated person, protected person, and/or minor; interested persons are those defined in Neb. Rev. Stat. § 30-2209(21).

(5) If the Office of Public Guardian is nominated as the guardian and/or conservator, or if a case is accepted to a waiting list for a guardian and/or conservator as determined by the Office of Public Guardian, the Office of Public Guardian shall be considered an interested person. If the Office of Public Guardian is nominated but not appointed due to lack of capacity by the Office of Public Guardian, or the Office of Public Guardian is nominated but not

appointed because the appointment would not comply with the requirements of the Public Guardianship Act, the Office of Public Guardian will no longer be an interested person in the case. If the Office of Public Guardian is an interested person only because the case has been placed on a Public Guardian waiting list, the Office of Public Guardian will receive notices, orders, and annual reports, but the appearance of the Office of Public Guardian will not be required at hearings, unless the hearing is to appoint the Office of Public Guardian.

(C) In all guardianship and/or conservatorship matters, it shall be the duty of the petitioner or applicant for a guardian or conservator to show in the petition or the application, in addition to what is required by Neb. Rev. Stat. §§ 30-2619 and 30-2633:

(1) The names of the interested persons as set forth in the above subsection (B)(1), their addresses if known, and their relationship to the subject of the petition or application;

(2) Any other court having jurisdiction over the ward or minor listing the caption of the case, case number, and type of proceeding;

(3) If the case involves a minor, if reasonably ascertainable, the minor's present address or whereabouts, the places where the minor has lived during the last 5 years, and the names and present addresses of the persons with whom the child has lived during that period.

(4) Whether the minor is subject to the Indian Child Welfare Act;

(5) The number of cases, if any, in which the person or entity being nominated is acting as guardian and/or conservator for other wards or protected persons at the time of the nomination;

(6) Whether the ward has a Power of Attorney. If so, the Power of Attorney shall be filed with the petition as a confidential document if available;

(7) Whether the ward has a Health Care Power of Attorney and/or a Declaration relating to use of life-sustaining treatment (Living Will). If so, the documents shall be filed with the petition as a confidential document, if available;

(8) If any interested person is known by the petitioner, applicant, or the attorney for either to be incompetent or a minor, such fact shall be disclosed to the court;

(9) If the petition or application nominates the Public Guardian, it shall state that due diligence was used to identify a guardian and/or conservator and the methods employed and that in spite of such efforts, the Public Guardian is the last resort.

(D) It shall be the duty of a guardian or conservator to:

(1) send a waiver of notice form to all interested persons at the time of mailing the initial inventory as set forth above in subsection (B)(1);

(2) send all annual accountings, all inventories, all notices of newly discovered assets, and all annual report of guardian reports filed with the court to all interested persons as set forth above in subsection (B)(2), unless waived by the court for good cause shown (personal and financial information forms are not to be sent to interested persons; bank statements, brokerage statements, and Office of Public Guardian individual ledgers are not to be sent to any interested persons unless otherwise ordered by the court, which mailing may be

requested by an interested person);

(3) send a notice of right to object form with all inventories, notices of newly discovered assets, annual accountings, and annual report of guardian reports that are sent to interested persons as set forth above in subsection (B)(1) and (B)(2);

(4) notify the court of the change of address of the ward or protected person within 10 days of the change and send notice to all interested persons as set forth above in subsection (B)(2) unless waived by the court for good cause shown; and

(5) notify the court of the ward or protected person's death within 10 days and send notice to all interested persons as set forth above in subsection (B)(4).

(E) All courts shall:

(1) ensure that all interested persons are on the certificate of mailing for inventories, annual accounting, annual report of guardian reports, and motions that are filed with the court. If all interested persons are not on the certificate of mailing, the court shall issue a Notice of Need for Corrective Action(s) form and send it to the person who filed the document(s) to correct the certificate of mailing and send the document to all interested persons; and

(2) send out reminders to guardians and conservators indicating annual filing deadlines 45 days prior to the annual filing due date.

(F) If a waiver of notice form is filed with the court, then the following items need not be sent on an annual basis to the person who filed the waiver of notice form.

(1) Annual Report of Guardian including any accounting and associated documents;

(2) Annual Report of Conservator including any accounting and associated documents;

(3) Application for Approval of Fees;

(4) Application for Approval of Accounting; and

(5) Orders and Notices of Hearing on any of the above filings.

(G) If a waiver of notice form is filed with the court, then any filings, other than those listed in subsection (F), shall be sent to the person who filed the waiver of notice form. This specifically includes, but is not limited to, any petition to change the guardian or conservator, assumption by a standby guardian, final accounting of a guardian or a conservator, request for discharge of a guardian or a conservator, and request for exoneration of a bond or for a change in the amount of the bond.

§ 6-1433 amended August 31, 2011, effective January 1, 2012; § 6-1433(B)(5) amended May 23, 2013, effective September 1, 2013; § 6-1433(C)(2) amended August 28, 2013, effective September 1, 2013; § 6-1443(A) and (A)(1) amended April 16, 2014, effective July 1, 2014; § 6-1433(A)-(E) amended September 10, 2015; § 6-1433(B), (D)-(G) amended November 13, 2019, effective April 1, 2020.
